

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Appeal of the
Trespass Citation Issued to
Thomas Joseph Krekelberg

**NOTICE OF PREHEARING
CONFERENCE AND NOTICE OF
HEARING**

PLEASE BE ADVISED that a prehearing conference will be held by telephone conference call Wednesday, April 2, 2003, at 1:30 p.m.

Participating in the prehearing conference telephone call will be the undersigned Administrative Law Judge, Steve M. Mihalchick, whose office is located at 100 Washington Square, Suite 1700, Minneapolis, MN 55401-2138, Conservation Officer Joel Heyn, who issued the citation, and Appellant Thomas J. Krekelberg. Please call the Administrative Law Judge's Secretary, Nancy Hansen, 612-341-7652, to verify that you will be available and to provide the telephone number you wish to be called at, prior to March 31, 2003. The Administrative Law Judge will place the call using these telephone numbers. If the date or time are not convenient, please call as soon as possible.

The purpose of the prehearing conference telephone call is to determine the nature of the dispute and to determine the best way to resolve it. The telephone call is expected to last about fifteen minutes. If the appeal cannot be resolved during the telephone call itself, the Administrative Law Judge will set a time and place for a hearing. The ALJ will also decide whether the hearing will be held by telephone or in person.

The citation that is being appealed was issued pursuant to Minn. Stat. § 97B.002. Subdivision 3 of that statute provides that if a person requests a hearing in order to appeal a citation, the hearing shall be held pursuant to procedures set forth in section 116.072, subd. 6. That statute provides a simplified administrative hearing process, and refers to Minnesota Rules, parts 1400.8510 to 1400.8612. These are the rules that govern the conduct of this appeal. Copies of the statutes and rules may be obtained from the Documents Section of the Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155. Statutes and rules may also be found at county law libraries and many other public libraries in the State. The statutes may also be found using the Internet at www.revisor.leg.state.mn.us/stats/. The rules may be found at www.revisor.leg.state.mn.us/arule/.

It is not necessary that a person have an attorney in order to participate in this case. They may, however, choose to be represented by legal counsel or any other representative of their choice.

The decision in this case will be based only on factual information or evidence that is part of the hearing record. Persons participating in the hearing should have available all documents, records, witnesses and any other evidence they need to present their position. Subpoenas are available to compel the attendance of witnesses or production of documents. See Minnesota Rule 1400.8601 for the procedures regarding subpoenas.

After the hearing is over, the Administrative Law Judge will issue a recommended decision. A copy will be sent to each party and to the Commissioner of Natural Resources. After waiting at least five days, the Commissioner will issue a final order. During the five-day period, the parties may file comments with the Commissioner regarding the recommended decision.

Failure to provide your telephone number, failure to participate in the prehearing conference telephone call, or failure to appear at the hearing will result in the citation being upheld and the fine will have to be paid within thirty days of the issuance of the Commissioner's decision, with no further opportunities for administrative appeal.

Appeal hearings should be limited to cases where there is a legitimate, good faith disagreement about the facts or the law. The statute (§ 116.072, subd. 6(d)) provides that if the Administrative Law Judge finds that a hearing was requested solely for purposes of delay or that the hearing request was frivolous, the costs of holding the hearing may be added to the amount of the fine.

Questions concerning settlement of this matter may be directed to the issuing officer or Pat Watts, Policy/Legal Analyst, Minnesota Department of Natural Resources, 500 Lafayette Road, Box 37, St. Paul, Minnesota 55155-4047, telephone 651-296-4883.

Dated this 21st day of March 2003.

s/Steve M. Mihalchick
STEVE M. MIHALCHICK
Administrative Law Judge